

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7736

BILL NUMBER: SB 417

NOTE PREPARED: Apr 24, 2003

BILL AMENDED: Apr 23, 2003

SUBJECT: Coal Combustion Deduction and Tax Credit.

FIRST AUTHOR: Sen. Waterman

FIRST SPONSOR: Rep. Stilwell

BILL STATUS: As Passed - House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) The bill establishes a property tax deduction for manufacturers who purchase depreciable personal property used to manufacture recycled components composed of at least 15% coal combustion waste generated in Indiana. The bill also establishes an income tax credit for manufacturers who manufacture recycled components consisting of at least 15% coal combustion waste generated in Indiana. It also provides that a taxpayer may not claim both the property tax deduction and the income tax credit during the same taxable year. The bill specifies the uses of coal combustion waste that the Solid Waste Management Board may not regulate.

Effective Date: (Amended) January 1, 2004.

Explanation of State Expenditures: (Revised) *Tax Credit:* The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the tax credit. The Department also would have to monitor fiscal year credits claimed during a taxable year for purposes of the aggregate credit limit, and report certain information to the Center for Coal Technology Research. These expenses presumably could be absorbed given the DOR's existing budget and resources.

AV Deduction: When new business personal property is added to the tax base, part of the property tax burden shifts from real property to business personal property, causing the state's expense for regular PTRC and Homestead Credits to be reduced. The property tax deduction allowed by this bill would delay part of the shift to the new business personal property for one year, which in turn would also delay part of the state expense reduction. However since this deduction may only be used in the first year of assessment and may not be allowed if the taxpayer is granted the income tax credit, the impact to the state's PTRC and Homestead

credits may be negated. The bill provides that the deduction is applicable beginning with property taxes first due and payable in 2005.

The state pays Property Tax Replacement Credits (PTRC) in the amount of 60% of school general fund levies attributable to all property and 20% of the portion of all operating levies (including the remaining 40% of the school GF levy) that are attributable to real property and non-business personal property. Homestead Credits are paid by the state in the amount of 20% of the net property tax due for qualifying funds on owner-occupied residences.

PTRC and Homestead Credits are paid from the Property Tax Replacement Fund, which is annually supplemented by the state General Fund. Therefore, any change in PTRC or Homestead Credit payments would ultimately impact the state General Fund.

Explanation of State Revenues: (Revised) *Tax Credit:* The bill would reduce state Adjusted Gross Income (AGI) Tax liabilities of individual and corporate taxpayers that obtain and use coal combustion products from a facility located in Indiana for the manufacturing of recycled components. This tax credit is expected to reduce AGI Tax revenue by \$2.0 M annually. The revenue loss could potentially begin the second half of FY 2004 (due to changes in estimated tax payments) or FY 2005.

Background: The bill establishes a nonrefundable individual and corporate AGI Tax credit for manufacturers that obtain and use coal combustion products for the manufacturing of recycled components. The bill defines *coal combustion products* as by products resulting from the combustion of coal in a facility located in Indiana, including a fluidized bed boiler. Coal combustion products includes boiler slag, bottom ash, fly ash, and scrubber sludge. Tangible personal property is a *recycled component* if coal combustion products constitute at least 15% by weight of the property. The credit is equal to \$2 per ton of increased acquisitions during the taxable year of coal combustion products obtained and used by a manufacturer. Businesses that already use coal combustion products would have to show at least a 10% increase in use over the highest of the preceding three years to claim the credit. Under the bill, a taxpayer is not entitled to a refund, carryback, or carryforward of excess credits. In addition, the bill limits the number of years that a taxpayer may claim the credit to 10 consecutive years. The bill limits the aggregate credits claimed during a taxable year to \$2.0 M. Thus, total credits may be claimed each year for usage totaling up to 1.0 M tons.

The table below reports the approximate 1999 total production of coal combustion products and amount and percent reused for seven utilities in Indiana (NiSource, Cinergy, AEP, Vectren, Hoosier Energy, IKEC, and IPL). This indicates that annual unused tonnage could potentially total about 4.8 M tons. However, the amount of creditable reuse in a taxable year could potentially exceed this total assuming: (1) some annual growth in production of coal combustion products; (2) year-to-year variation in reuse by individual taxpayers; and (3) turnover in those entities reusing coal combustion products. Coal combustion products include not only flyash, but also bottom ash and flue gas desulfurization (FGD) materials. Based on this data, Indiana is slightly ahead of the national average reuse percentage, which is approximately 31% reuse for coal combustion products. More recent production and use data has been requested but not received.

1999 Coal Combustion Products Totals			
Product	Tons Produced	Tons Reused	Percent Reused
Flyash	3,287,072	1,130,152	34%
FGD Materials	3,779,295	1,839,141	49%
Bottom Ash	1,162,642	497,420	43%
Total	8,229,009	3,466,713	42%

Since the tax credit is effective beginning in tax year 2004, the fiscal impact could potentially begin the second half of FY 2004 (due to changes in estimated tax payments) or in FY 2005. Revenue from the AGI Tax on corporations is deposited in the state General Fund. Eighty-six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of this revenue is deposited in the Property Tax Replacement Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *AV Deduction:* The bill provides an AV deduction for depreciable personal property that a manufacturer purchases and uses to manufacture recycled components containing at least 15% coal combustion products by weight. (See *Explanation of State Revenues* for discussion of coal combustion products and usage.) A manufacturer would be entitled to the AV deduction only in the first year that the depreciable personal property is subject to assessment. The bill provides that the deduction is applicable beginning with property taxes first due and payable in 2005.

The allowable deduction is equal to 15% of the assessed value of the personal property. The bill prohibits a taxpayer from obtaining the Coal Combustion Product Tax Credit (see above under Explanation of State Revenues) during the taxable year that the taxpayer obtains this AV deduction. Data is unavailable relating to potential future investment in personal property used to manufacture products containing coal combustion products, or the typical value of such property. Additional deductions reduce the assessed value tax base. This causes a shift of the property tax burden from the taxpayers receiving the deductions to all taxpayers in the form of an increased tax rate. Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the deduction amount applicable to that fund.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Assessors; Auditors.

Information Sources: R. James Meiers, Indianapolis Power and Light, (317) 261-5185.

Fiscal Analyst: Jim Landers, 317-232-9869; Bob Sigalow, 317-232-9859.